

MORASH, MELANIE

From: Shaffer, Caleb
Sent: Friday, January 24, 2014 2:05 PM
To: Manzanilla, Enrique
Cc: MORASH, MELANIE; Lindsay, Nancy; DIAZ, ALEJANDRO; Lyons, John
Subject: FYI only on HP/Varian Cold Weather Sampling Effort
Attachments: Workplan Approval Ltr - VI Evaluation Addendum (23Jan14).pdf

Enrique,

This is just FYI, no action needed. Below is an nicely summarized update from Melanie on the HP/Varian cold weather sampling effort based on a meeting she had yesterday with the PRPs. Things are progressing, which is good. However, there is still a lot of tension and while we haven't scheduled a firm date that they will conduct the sampling, we hope to have that from them by the end of next week. Since they wanted to use the short term canister sampler instead of the long term sample, Melanie worked with our toxicologists and QA office and made the recommendation that they do two closely spaced samples. This could potentially help them in the long term as it would provide a more robust data set that could support a no further action determination by the Agency.

Secondly, they want the Agency to absolve them of additional investigation after this round, which we clearly cannot do without any sampling results yet. After we have the data from this cold weather sampling round, the team will come to you with a recommendation on next steps after consulting with the internal core VI team and before communicating anything back to the PRP. If data from this round indicates further sampling is needed in homes out to the 5 ug/L TCE contour, we anticipate the PRP's to react strongly and will brief you accordingly before providing that direction to the PRPs.

Let me know if you have any questions, or if you want to discuss further at this point.

Caleb

-----Original Message-----

From: MORASH, MELANIE
Sent: Thursday, January 23, 2014 8:14 PM
To: Shaffer, Caleb; roger.papler@waterboards.ca.gov
Cc: DIAZ, ALEJANDRO; Rosen, Vicki; Estrada, Thelma; Maldonado, Lewis; Williams, Laurie; Plate, Mathew
Subject: HP Site (Palo Alto) - Workplan Approval Issue Raised by HP Counsel Chris Roe

Hi Caleb,

I am copying the project team on this e-mail, as well as Roger from the Regional Board. Lewis & Laurie are copied as well, as they have been assisting on legal issues during Thelma's absence this week.

Our meeting today with the HP and Varian group in Palo Alto was in general cordial and productive. We had lengthy discussions regarding how to message re-sampling to residents and the logistics of our upcoming door-to-door residential outreach effort.

At the close of the meeting, Chris Roe (who was attending by phone), raised as a concern language in the attached workplan approval letter, which was sent today. Specifically, he was upset by language at the close of the letter - that the agencies approve the workplan however still recommend a change in the sampling strategy. (Note that the letter does not _require_ the change.) Chris and others among the HP/Varian team also asked if I could

basically give a guarantee that the next round of sampling would be the final round, which, of course, I could not.

Because of how HP-related matters have been elevated in the past by the RPs, I wanted to summarize the issue for you ASAP and provide thoughts on a response...

Numerous staff hours have been spent on providing extensive technical comments to HP and Varian on their draft workplan, including detailed information on the benefits of changing sampling strategies (to longer-term sampling methods that may provide more representative methods of assessing VI exposure). The RPs have remained resistant to changing sampling strategy, so Roger and I, together with our QA office & toxicologists, worked to develop some alternative sampling options that regardless utilize HP/Varian's preferred sampling device (the 24-hour canister).

EPA's VI guidance does not have a one-size-fits-all approach; rather, relies on a menu of options and sampling strategies that a project team can consider. Consistent with this approach, we memorialized in the workplan approval letter that the 24-hour canister device is fine, however, it is "minimally acceptable" and that two closely spaced sampling events would be preferable, yielding a more robust data set upon which to make a VI determination.

In essence, I see Chris Roe's complaint as "having the cake and eating it too," so to speak. They don't want to change sampling strategy (preferring another one-time, short-duration sampling event) to the passive sampler, despite its advantages (the benefits of which include that it is smaller, cheaper, easier to use, potentially more representative data, and less intrusive for residents). To be fair to HP/Varian, we can understand the desire to continue with a consistent sampling protocol for the winter sampling round, and the Regional Board, with my concurrence, has approved the canister sampler that is endorsed by our guidance.

However, they still want reassurance from EPA that we won't require them to do any additional work after this sampling round, despite our recommendation to expand their sampling program in a way that we feel will provide us with the robust data that would enable such a no further action determination. And when we provide them with additional alternatives, there is additional consternation.

--Melanie